

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Judith Kramps )  
Dist. 2, Map 54B, Group C, Control Map 54B, ) Hamblen County  
Parcel 4.01 )  
Residential Property )  
Tax Year 2006 )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$21,800	\$158,200	\$180,000	\$72,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 30, 2006 in Morristown, Tennessee. The taxpayer was represented by her husband, B. J. Kramps. The Hamblen County Assessor of Property, Keith Ely, represented himself. Also in attendance at the hearing was S. David Britton, a State Certified General Real Estate Appraiser, who testified on Mr. Ely's behalf.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a 200' x 100' lot improved with a duplex constructed in 2002 located at 352 Greenbriar Road in Talbott, Tennessee.

The taxpayer contended that subject property should be valued at \$140,000 – \$142,500. In support of this position, Mr. Kramps testified that his wife purchased subject property on March 31, 2005 for \$153,000. Mr. Kramps asserted that the sale actually supports a value of only \$142,500 because the purchase price included a \$7,500 commission and \$3,000 in closing costs. Thus, the seller only netted \$142,500.

The taxpayer next argued that two additional factors support a reduction in value. First, Mr. Kramps introduced the assessor's appraisals of four nearby duplexes in the area which averaged \$140,275. Second, Mr. Kramps introduced several sales of duplexes in the area which averaged \$129,540.

The assessor contended that subject property should be valued at \$165,000. In support of this position, Mr. Britton's testimony and appraisal report were introduced into evidence. Mr. Britton maintained that the sales comparison, income and cost approaches support value indications of \$156,000, \$168,000 and \$178,347 respectively. Mr. Britton correlated the various indications of value at \$165,000.



The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$165,000 in accordance with Mr. Britton's appraisal report.

Since the taxpayer is appealing from the determination of the Hamblen County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's March 31, 2005 purchase of subject property initially lacks probative value because it was purchased in a private sale. According to Mr. Kramps, subject property was not listed for sale at the time of his wife's purchase. Moreover, the administrative judge finds that one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.



The administrative judge would also note that Mr. Kramps' "cash equivalency" computation does not comport with generally accepted appraisal practices insofar as commissions are typically included in the recorded consideration.

The administrative judge finds that the sales introduced by Mr. Kramps cannot provide a basis of valuation absent additional analysis. The administrative judge finds that comparable sales must be adjusted rather than simply averaged to arrive at a reliable indication of value. The administrative judge finds that when deriving an estimate of value from comparative sales data, one textbook cautions that:

**In selecting the single value estimate, the assessor must never average the results.** Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments. [Emphasis added.]

International Association of Assessing Officers, *Property Assessment Valuation* (2<sup>nd</sup> ed. 1996), pp. 123-24. Although Mr. Kramps' presentation was well prepared and organized, it did not conform to generally accepted appraisal methodology in this key respect. See also *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) wherein the Assessment Appeals Commission addressed the need to adjust comparable sales as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. The administrative judge finds the Commission's reasoning equally applicable to the case at hand. Indeed, the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit.



The goal here is to define and identify a unit of comparison that explains market behavior.

4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001).

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.



Based upon the foregoing, the administrative judge finds that the taxpayer introduced insufficient evidence to establish a prima facie case and the assessor could have moved for a directed verdict. The administrative judge finds that even if it is assumed arguendo that the taxpayer established a prima facie case, Mr. Britton’s appraisal report unquestionably constituted the best evidence of value in the record. The administrative judge finds that Mr. Britton considered all three approaches to value whereas Mr. Kramps did not introduce an income or cost approach. Moreover, Mr. Britton adjusted his comparable sales while Mr. Kramps did not.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$21,800	\$143,200	\$165,000	\$66,000


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of November, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. B. J. Kramps  
Keith Ely, Assessor of Property